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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,907	05/04/2001	Van Nguyen	12929.0061	9112

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05/06/2004

Stephen H. Cagle
750 Bering Drive
Houston, TX 77057-2198

EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/849,907

Applicant(s)

NGUYEN, VAN

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 3, 5-12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2, 3, 5-12, 14-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

This is the fourth office action of serial number 09/849,907, Apparatus for Supporting Medical Fluids, filed May 4, 2001.

Withdrawal of Allowance

Upon review of the art of record, the previously allowance of claims has been withdrawn and the following action is taken. Any inconvenience is regretted. Claims 2, 3, 5-12, and 14-21 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the originally filed specification or drawings for the limitation that the arm is movable with respect to the clamp, thereby allowing the positioning of the support “within at least three directional planes of motion” with respect to the clamp is not inherent, implicit or explicit from the original specification as required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6-12, 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,875,651 to Wergin in view of U.S. Patent No. 837,642 to Powell. Wergin teaches an apparatus comprising an apparatus (10) having a clamp (52, 53, 55), an arm (12-18) and apparatus (32). The clamp (52, 53, 55) removably secures the apparatus to an object or surgical table frame (26) to allow the object to support the apparatus, wherein the object is movable relative to the patient to whom the fluids are to be delivered (col. 3, line 68 - col. 4, line 3). The arm is movable with respect to the clamp allowing the positioning of the support within at least three directional planes of motion with respect to the clamp. The arm has a first longitudinal axis (the axis is along element 16). Firstly, the arm is radially rotatable in a plane of motion about the first longitudinal axis with respect to the clamp (once the set screw (72) is released element 16 can rotate within the sleeve 70). Secondly, the arm is radially rotatable about the clamp in a plane containing the first longitudinal axis (via the serrations 54, 56). Thirdly, the arm is axially movable along the first longitudinal axis and horizontally with respect to the clamp (via the element 40).

Regarding claim 6-12, the arm comprises a first portion (12-16) extending from the clamp and a second portion (18) extending from the first portion. The first portion of the arm

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has a first longitudinal axis (along member 16) and the second portion of the arm has a second longitudinal axis (along member 18). The first longitudinal axis is substantially perpendicular to the second longitudinal axis. The first portion of the arm is rotatable about the clamp within a plane containing the first longitudinal axis of the first portion (via the serrations 54, 56). The second portion of the arm is rotatable about the first portion of the arm (once the set screw (72) is released element 16 can rotate within the sleeve 70). The first portion of the arm is rotatable about the first longitudinal axis with respect to the clamp (once the set screw (72) is released element 16 can rotate within the sleeve 70). The object is an item of surgical furniture selected from a surgical table and surgical bed upon which a patient lies (col. 2, lines 18+). The object is a surgical table. The clamp is adapted to be releasably secured to a rail (26). The support is adapted to retain the receptacle containing medical fluids for delivery to the patient intravenously. However, Wergin fails to teach the support mounted on a rod, wherein the rod is mounted to an end of the arm remote from the clamp and the rod extends telescopically within arm.

Powell teaches a (receptacle) support device (16, 17) found attached to hospital beds. The support device has a support or hook assembly (17) attached to an end of a support rod (16) that extends telescopically within the arm (9) secured to a clamp (3, 2) for attached to a frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Wergin, which is a support device found attached to hospital beds, to have incorporated the vertical hollow arm portion 18 and to provide a rod and support as shown by Powell which is also a support device found attached to hospital beds.

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One would have been motivated to do this in that during hospital stays fluids are often needed as clearly stipulated by Powell. By having the hollow arm and additional support at the end of an adjustable rod, the device of Wergin can function either alone or in combination with the transducer support supporting fluid bags at various heights relative to the surgical table as taught by Powell.

Response to Arguments

Applicant's arguments with respect to claims 2, 3, 5-12, and 14-21 have been considered but are moot in view of the new ground(s) of rejection.

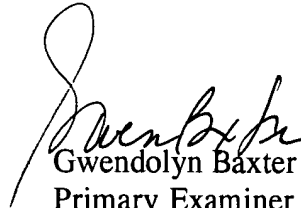
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter
Primary Examiner
Art Unit 3632

GB

April 7, 2004